THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P.No. 19278 of 2004

Dated: 30.10.2007

Between:

Nanduri Rajyalakshmi.

..Petitioner.

And

The Executive Engineer, A.P.Housing Board, Tadepalligudem, W.G.District.

..Respondent.

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P.No. 19278 of 2004

ORDER:

This writ petition is filed questioning the auction notification No.A3/Auction/TPG/2004, dated 28.08.2004, in so far as plot No.2E of Tanuku, West Godavari District is concerned, as arbitrary, illegal and unsustainable in law, and consequently, for a direction to the respondent to register the said house plot in favour of the petitioner.

Brief case of the petitioner is that she purchased house plots bearing No.2F & 2G in the auction conducted by the respondent. Thereafter, it appears, in road widening, a portion of the said plots was taken away by the Government and on the representation given by the petitioner, the respondent agreed to compensate her by providing equivalent site to that of the acquired site by allotting a portion in the adjoining plots bearing No.2E & 2H with a condition that the petitioner has to agree to purchase the left over small bits in the said extents at market value. The petitioner agreed and offered her consent by way of a letter. The sale deeds were also executed on 25.08.2004 and thus, the petitioner has become the absolute owner of plots Nos.2E & 2H. Though the

condition precedent is that the petitioner has to purchase the remaining bits in the said plot Nos.2E & 2H and the petitioner also agreed for the same, the same were not sold and registered. The petitioner was of the hope that the same also would be registered. Thereafter, it appears, a notification was issued putting the said land to public auction despite the fact that the petitioner approached the authorities and offered to pay the market value. The respondent did not hear her and hence, she approached this Court and filed the present writ petition.

A detailed counter is filed on behalf of the respondent, wherein the facts are admitted. In the said counter, it is stated that subsequent to the registration of plots E & H on 25.08.2004, the respondent addressed letters. It is also stated that the respondent addressed a letter to the Government seeking permission to sell the bits of plots 2E & 2H to the petitioner, but the said approval by the Government is not received. In the meanwhile, a Division Bench of this Court in W.P.No.26653 of 2001 held that the proposal of sale of the plots to private individuals without conducting public auction is not correct and the Government or Governmental bodies shall maintain transparency and hence, it necessitated the Government to withdraw the earlier proposal sent to the Government and issued the said auction notification on 28.08.2004. It is further stated in the said counter that as there were no participants, the said auction could not take place and subsequently, another notification was issued on 30.10.2004, and thereafter, respondents 2 and 3 have become the highest bidders and the said plots were sold in their favour.

Heard the learned counsel for the petitioner Sri Raju,

learned Standing Counsel Sri Ranganath Kumar and Sri Sai Gangadhar Chamarthy, counsel for respondents 2 & 3.

Learned counsel for the petitioner tried to impress upon this Court saying that the respondent though agreed in principle to sell the bits of the plots 2E & 2H and recommended the same to be sold to the petitioner and before the said approval is obtained, the respondent issued the notification and hence, the same is liable to be set aside. It is further contended by the learned counsel for the petitioner that subsequent auction notification dated 30.10.2004, is a continuation of the auction notification dated 28.08.2004, which is impugned in this writ petition, and as both the notifications are one and the same, this Court can definitely go into the said aspect and quash even the notification dated 30.10.2004.

Reiterating what is stated in the counter-affidavit, Sri Ranganath Kumar stated that it is only because of the judgment passed by a Division Bench of this Court in W.P.No.26653 of 2001, the respondent withdrew the earlier proposal sent to the Government, and issued the auction notification.

Having heard both the learned counsel at length, this Court is of the view that the relief sought for in this writ petition is not in existence and this Court cannot pass any orders. It is evident that the auction notification, which is impugned in this writ petition, is dated 28.08.2004 and it relates to the sale of some open plots in certain areas. Subsequently, it did not work out and hence, another auction notification was issued on 30.10.2004. The earlier notification dated 28.08.2004 relates to the open plots situated at Tadepalligudem, Bhimavaram, Vatlur and Tanuku, whereas the auction notification dated 30.10.2004 relates to open plots at

Bhimavaram, Vatlur, Narsapuram, Tanuku and again Vatlur near Eluru. From a comparison of the said two notifications, it cannot be said that the auction notification dated 30.10.2004 is a continuation to the auction notification dated 28.08.2004. Of course, in both the notifications, there is plot No.2E of Tanuku. From this, it cannot be said that the auction notification dated 30.10.2004 is only a continuation of the earlier auction notification dated 28.08.2004. If the petitioner so chosen, she should approach this Court and file a separate writ petition questioning the auction notification dated 30.10.2004 or sought for an amendment to the present writ petition, but she has not chosen to do so. For this reason, this Court is of the view that no orders need be passed in this writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

GOPALAKRISHNA TAMADA, J

Dated:30.10.2007

Note:Issue CC by one week.

(B/o)

sj